

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

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TERRICK L. THOMPCKINS,

Petitioner,

No. 2:21-cv-0005 KWR/DLM

DWAYNE SANTISTEVAN, *et al.*,

Respondents.

**ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER is before the Court on United States Magistrate Judge Damian L. Martínez's Proposed Findings and Recommended Disposition (PFRD) filed October 19, 2023. (Doc. 22.) Judge Martínez finds that Thompkins filed a mixed petition containing both exhausted and unexhausted claims and recommends the Court give Thompkins 21 days to voluntarily dismiss the unexhausted claims. (*See id.* at 1.) The PFRD notified the parties of their ability to file objections no later than 14 days after the PFRD was filed. (*Id.* at 14–15.) As no party filed objections within the time allowed, the Court concludes that appellate review has been waived.

**IT IS THEREFORE ORDERED** that Thompkins has 21 days from the entry of this Order to file a notice with the Court that voluntarily dismisses the unexhausted claims (Claims 1, 3, 8, 11, and 14(b)–(d)) so that he may go forward only with the exhausted claims (Claims 2, 4–7, 9–10, and 12–14(a)).

**IT IS FURTHER ORDERED** that, if Thompkins fails to voluntarily dismiss Claims 1, 3, 8, 11, and 14(b)–(d) within the 21-day deadline, the Court will dismiss the entire mixed Petition without prejudice.

**IT IS FURTHER ORDERED** that if Thompkins files a notice dismissing the unexhausted claims, Respondents must file an answer regarding the exhausted claims within 21 days of the notice. Thompkins may file a reply brief within 21 days of the answer.

A handwritten signature in black ink, appearing to read 'Kea W. Riggs', is written over a horizontal line.

KEA W. RIGGS  
UNITED STATES DISTRICT JUDGE